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Attorneys for Defendants
AMBU A/S, AMBU INC., AMBU LTD., and
AMBU SDN. BHD.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THE LARYNGEAL MASK COMPANY
LTD. and LMA NORTH AMERICA,
INC.,

Plaintiffs,

v.

AMBU A/S, AMBU INC., AMBU LTD.,
and AMBU SDN. BHD.,

Defendants.

Case No. 3:07-cv-01988-DMS-NLS

**DECLARATION OF CHARLENE M.
MORROW IN SUPPORT OF DEFENDANTS
AMBU A/S, AMBU INC., AMBU LTD., AND
AMBU SDN. BHD.'S MOTION FOR LEAVE
TO AMEND ANSWER AND
COUNTERCLAIMS**

Judge: Honorable Dana M. Sabraw
Date: August 22, 2008
Time: 1:30 p.m.
Courtroom: 10

AMBU A/S, AMBU INC., AMBU LTD.,
and AMBU SDN. BHD.,

Counterclaimants,

v.

THE LARYNGEAL MASK COMPANY
LTD. and LMA NORTH AMERICA,
INC.,

Counter-Defendants.

1 I, Charlene M. Morrow, declare:

2 1. I am a partner with the law firm of Fenwick & West LLP, counsel to Defendants
3 Ambu A/S, Ambu Inc., Ambu Ltd., and Ambu Sdn. Bhd. (collectively, "Ambu"). I am an
4 attorney admitted to practice before this Court. I submit this declaration in support of Defendants
5 Ambu A/S, Ambu Inc., Ambu Ltd., and Ambu Sdn. Bhd.'s Motion for Leave to Amend Answer
6 and Counterclaims. I have personal knowledge of the matters set forth herein, and if called upon
7 to do so, could and would testify competently thereto.

8 2. On or around July 1, 2008, I was notified via email from my client that
9 representatives from The Laryngeal Mask Company Ltd. and/or LMA North America, Inc.
10 (collectively, "LMA") had recently resumed their sales tactic of contacting Ambu's customers
11 and claiming that Ambu's products cause nerve damage in reference to the cadaver study
12 performed by David Z. Ferson, M.D.

13 3. On or around July 3, 2008, I sent a letter via email and U.S. Mail to LMA's
14 counsel expressing Ambu's intent to amend its answer and counterclaims to include additional
15 counterclaims. I spelled out the factual grounds and the likely legal grounds for that amendment
16 as I understood them at the time. In this letter I also asked LMA's counsel whether LMA would
17 stipulate to Ambu's amended pleading. A true and correct copy of this letter is attached as
18 Exhibit A.

19 4. On July 3, 2008, I received an email from counsel for LMA asking for a draft of
20 the amended pleading. I responded on July 7, 2008 and explained that I was still awaiting client
21 sign off from our client, and would forward the draft when I received it.

22 5. On July 8, 2008, LMA's counsel sent me an email to inform me that LMA was not
23 inclined to stipulate to Ambu's amended pleading.

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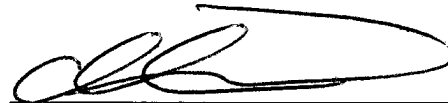
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1 I declare under the penalty of perjury under the laws of the United States of America that
2 the foregoing is true and correct. Executed this 11th day of July, 2008, at Mountain View,
3 California.

4 Dated: July 11, 2008



Charlene M. Morrow

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

EXHIBIT A

FENWICK & WEST LLP

SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041
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July 3, 2008

CHARLENE M. MORROW

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VIA U.S. AND ELECTRONIC MAIL

John B. Sganga
Knobbe Martens Olson & Bear LLP
2040 Main Street, 14th Floor
Irvine, CA 92614-3641

Re: LMA v. Ambu; Case No. 07 CV 1988 DMS (NLS)

Dear John:

Ambu has become aware of recent instances of unlawful sales tactics employed by LMA. LMA sales representatives have contacted Ambu's customers and prospective customers falsely claiming that Ambu's laryngeal mask products cause nerve damage in an attempt to dissuade or divert such customers from doing business with Ambu. The LMA sales representatives refer to a study performed by Dr. David Z. Ferson from which LMA has deceptively concluded that Ambu's laryngeal masks are inferior and less safe than LMA's products. These false conclusions have also been published in a marketing brochure that LMA has distributed to the public. Ambu had believed that these tactics had ceased, but recently became aware of additional instances of them.

Consequently, Ambu intends to amend its Answer and Counterclaims to include one or more of the following counterclaims:

- False Advertising in violation of § 43(a) of the Lanham Act;
- False Advertising under California Business and Professions Code § 17500, *et seq.*
- Trade Libel pursuant to California Civil Code § 45;
- Intentional Interference with Prospective Economic Relations; and
- Unfair Competition under California Business and Professions Code § 17200, *et seq.*

Please confirm by close of business on Monday, July 7th whether your client will stipulate to Ambu's amended pleading. Thank you for your cooperation.

Sincerely,



Charlene M. Morrow

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule 5.2 on July 11, 2008.

By: s/ Dennis Faigal
Dennis Faigal
E-mail: dfaigal@fenwick.com

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